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successor in interest to Abex Corporation

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

THOMAS H. TOY, SR. and
AGNES TOY,

Plaintiffs,

vs.

HONEYWELL INTERNATIONAL
INC., et al.

Defendants.

) Case No. 4:19-cv-00325-HSG

) Related Cases: 4:19-cv-00326-HSG and
) 4:19-cv-336-HSG

) Judge: Haywood S. Gilliam, Jr.

) **STIPULATION AND ORDER FOR**
) **EXTENSION OF TIME FOR**
) **DEFENDANT TO FILE**
) **RESPONSIVE PLEADING (L. RULE**
) **5 AND 6; FRCP 6)**

) [Removed from Alameda County
) Superior Court Case No. RG18932350]

Pursuant to Civil Local Rules 5 and 6, and Fed. R. Civ. P. 6, Plaintiffs
Thomas H. Toy, Sr. and Agnes Toy, by and through their attorneys of record, and
Defendant Pneumo Abex LLC, successor in interest to Abex Corporation, by and
through its attorneys of record, hereby stipulate to an extension as follows:

1. On December 14, 2018, Plaintiffs Thomas H. Toy, Sr. and Agnes Toy
("Plaintiffs") filed a Complaint for Personal Injury and Loss of Consortium ("the
Complaint") in Alameda County Superior Court (Case No. RG18932350)

2. On January 18, 2019, Defendant Viad Corp filed a Notice of Removal pursuant to § 1442 in the Northern District of California (Case No. 4:19-cv-00326).

3. On January 22, 2019, the same day the state court answer or response to the state court Complaint by Defendant Pneumo Abex LLC, successor in interest to Abex Corporation's ("Defendant) was due, Defendant The William Powell Company and Copes-Vulcan, Inc. filed a Notice of Removal pursuant to 28 U.S.C. §§ 1331 and 1442(a)(1) in the Northern District of California (Case Nos. 3:19-cv-00336, and 3:19-cv-00325-JSC, respectively).

4. Not until recently did Defendant learn of the Notices of Removal in three separate actions.

5. On February 4 and 12, 2019, Plaintiffs and Defendant met and conferred regarding Defendant's intent to file its responsive pleading and/or Motion to Dismiss the Complaint pursuant to Fed. R. Civ. P. 12 (B)(2).

6. During the meet and confer process, the parties agreed for Defendant to have an extension to respond to the Complaint in each of the separate actions.

Based on the foregoing, IT IS HEREBY STIPULATED, by and between all parties through their respective counsel of record that:

(1) Defendant Pneumo Abex LLC, successor in interest to Abex Corporation's date to file its federal court answer or otherwise file its federal court response to the Complaint now in federal court, under the three separate case numbers identified in paragraphs 2 and 3 above, is extended to March 14, 2019.

(2) This stipulation between Plaintiffs and Defendant does not waive Defendant's rights to move to dismiss the case or seek any other relief permitted under the law.

(3) This stipulation is not intended to be, nor does it constitute to be a general appearance in this federal action.

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IT IS SO STIPULATED.

Dated: February 22, 2019	DEAN OMAR BRANHAM SHIRLEY, LLP
	By: /s/ <u>Benjamin H. Adams</u> Jessica M. Dean, Esq. Benjamin H. Adams, Esq. Attorneys for Plaintiffs, THOMAS H. TOY, SR. and AGNES TOY
Dated: February 22, 2019	DEMLER, ARMSTRONG & ROWLAND LLP
	By: /s/ <u>John R. Brydon</u> John R. Brydon, Esq. Edward P. Tugade, Esq. Attorneys for Defendant, Defendant PNEUMO ABEX LLC, successor in interest to Abex Corporation

ORDER

IT IS SO ORDERED.

Dated: February 25, 2019	 UNITED STATES DISTRICT COURT
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